

**Draft Summary of Cultural Resources Work Group Meeting  
Oroville Facilities Relicensing (FERC Project No. 2100)  
September 25, 2001**

The Department of Water Resources (DWR) hosted the Cultural Resources Work Group meeting on September 25, 2001 in Oroville.

A summary of the discussion, decisions made, and action items is provided below. This summary is not intended to be a transcript, analysis of the meeting, or to indicate agreement or disagreement with any of the items summarized, except where expressly stated. The intent is to present a summary for interested parties who could not attend the meeting. The following are attachments to this summary:

Attachment 1	Meeting Agenda
Attachment 2	Meeting Attendees
Attachment 3	Flip Chart Notes
Attachment 4	Draft List of Study Plans/Coordination Issues
Attachment 5	Study Plan Template with Descriptions

### **Introduction**

Attendees were welcomed to the Cultural Resources Work Group meeting and objectives were discussed. The meeting agenda and a list of meeting attendees and their affiliations are appended to this summary as Attachments 1 and 2, respectively. Meeting flip chart notes are included as Attachment 3.

The Cultural Resources Work Group observed a moment of silence for the victims of the September 11<sup>th</sup> terrorist attacks in New York City, Washington, DC and Pennsylvania.

### **Action Items – August 28, 2001 Cultural Resources Work Group Meeting**

A summary of the August 28, 2001 Cultural Resources Work Group meeting is posted on the project web site. The Facilitator reviewed the status of action items from that meeting as follows:

<b>Action Item #C25:</b>	Investigate potential for a Memorandum of Agreement (MOA) between DWR and USFS or NPS to apply federal laws to acts of looting and vandalism.
Status:	Mark Selverston of the consulting team reported on the continuing effort to determine if this can be done. Initial indications are that Dr. Thorne's suggestion may not be possible. Mark added that there appear to be circumstances where the U.S. Attorney's Office can help investigate crimes, however there is no indication that the penalties for vandalizing cultural sites can be "federalized". The results of this inquiry will be included in Dr. Thorne's report to the Cultural Resources Work Group.
<b>Action Item #C26:</b>	Prepare for Cultural Resources Work Group review a list of potential studies and a list of cultural resources issues that would need to be coordinated with the other Work Groups.
Status:	A review of the list of potential Cultural Resources studies and issues requiring coordination with other Work Groups is included as part of this agenda.
<b>Action Item #C27:</b>	Prepare for Cultural Resources Work Group review revised APE description.
Status:	A discussion of the APE is included as part of this agenda.

### **Area of Potential Effects**

Mark Selverston reported on a meeting between the consulting staff, the Forest Service, Bureau of Land Management, and DWR to review the list of suggested revisions to the Area of Potential Effects (APE) offered at the June 26<sup>th</sup> Cultural Resources Work Group meeting. At that June

meeting, the Cultural Resources Work Group had agreed to use the existing FERC project boundary as the APE, pending the outcome of further discussions. Participants in the meeting identified four areas where the APE could reasonably be altered to address specific concerns identified by the Cultural Resources Work Group. These issue areas include:

- Resolve a gap in the APE boundary at the site of proposed Riverbend Park (Feather River low-flow section)
- Include transmission lines to the first substations (all of the substations are in the existing FERC boundary)
- Consider the extent to which the APE should extend below Oroville Dam. Currently, the APE extends to the Wildlife Area but this boundary could be changed to address specific project impacts further downstream.
- Consider impacts of lake and recreational facility use on accessibility to cultural sites outside the APE

One participant asked if the Chinese Temple was included in the revised APE. Mark responded that the temple is not in the current FERC boundary and is not directly impacted by project operations. Dale Hoffman-Floerke of DWR added that cultural resources do not have to be in the APE to be recognized as a historical resource and such resources outside the APE can be studied and included in a settlement agreement. This would include cultural resources that may be impacted by recreation development and might be studied by the Recreation and Socioeconomics Work Group. Dale emphasized that she anticipates close coordination between the Cultural Resources Work Group and the Recreation and Socioeconomics Work Group.

One participant expressed concern that recreation development not be allowed to impact the intrinsic/spiritual value of some cultural sites (e.g. peaceful locations along the river). Steve Heipel with the consulting team responded that close coordination with the Recreation and Socioeconomics Work Group would help avoid these impacts by allowing the Cultural Resources Work Group to help guide recreation development away from culturally sensitive locations.

Eric Ritter of BLM asked if a process for expanding the APE had been established. He previously suggested establishment of a zone around the lake where an evaluation of Butte County and the City of Oroville management activities might reveal impacts to cultural resources. Dale responded that the process undertaken by Mark and the agencies was designed to evaluate the need if any to expand the APE. Additionally, DWR and the consulting team are contacting FERC for guidance. She added that the relicensing studies could evaluate indirect impacts of the project but DWR would not be advising the City or County on their land-use practices. Dale emphasized that the inclusion of culturally significant sites and traditional cultural properties is an on-going process and would depend on information provided from the proposed studies to the Cultural Resources Work Group.

One participant asked if the DWR facilities above Lake Oroville (Lake Davis and Frenchman Lake) would be part of the APE. Dale responded that the upstream lakes were not part of the Oroville Facilities, were not affected by Oroville Project operations, had no power generation capabilities and therefore would not be part of the APE.

Art Angle representing Enterprise Rancheria reminded the Cultural Resources Work Group that he had recommended a Memorandum of Understanding (MOU) between DWR, DPR and the Tribes, clearly outlining the ground rules that would govern their working relationship during the relicensing process. Art expressed concern that the Cultural Resources Work Group had not discussed this item. He suggested that the Tribes need a clear understanding of how their interests and desires would be factored into study plan development and implementation before they could proceed with the relicensing effort. Several other participants expressed concern that the lack of progress on the MOU indicated a lack of sensitivity towards Native American issues, particularly the desire by

some that no further excavation occur during proposed studies. Patsy Seek, representing the Konkow Valley Maidu, suggested that some federal agency representatives act as if they do not want the Native Americans involved in this process at all. Kevin McCormick, representing Plumas National Forest responded that his agency welcomes the opportunity to work with the Native American community and sees his participation in the Alternative Licensing Process as a positive way to take part in a process that works to develop a management plan acceptable to all. Art suggested that a committee of Native American representatives (perhaps utilizing the Butte County Tribal Council), DWR and DPR be formed to write a draft MOU for review.

Dale suggested that Janis Offerman, the Cultural Resources Area Manager for DWR, work with Art to initiate a tribal-led committee to address this issue. The goal of the committee will be to meet prior to the next Cultural Resources Work Group meeting to begin developing the MOU.

### **Fluctuation Zone Task Force Update**

Janis Offerman reported that the final Fluctuation Zone Task Force study plan, including comments from Eric Ritter and management representing FERC, was distributed to everyone who had requested it. She added that DWR is waiting to complete the agreement with Mooretown to enable us to hire trainees. DWR cannot go forward with the work until the agreement with Mooretown is in place. Adrian Praetzellis of the consulting team reported that he is currently developing task orders with the Tribes to begin work as soon as possible. The goal is to begin studies within the fluctuation zone while lake water levels are low however, he stressed that it is important to negotiate how people will be compensated first. Adrian also pointed out that training is necessary and should not be approached hastily just to take advantage of this year's low lake levels. He mentioned that Rick Ramirez of DWR would be meeting soon with Tribal leaders in order to re-affirm the Department's commitment to this process.

One participant asked if the State Historic Preservation Office (SHPO) was included in the Fluctuation Zone study plan review process. Janis responded that SHPO will receive a courtesy copy, but there was no legal requirement to include them in the review.

### **List of Studies and Coordination Needs**

At their August 28, 2001 meeting, the Cultural Resources Work Group participants agreed to task DWR staff and the consultants with preparing a list of studies and identifying coordination needs with other Work Groups. A handout outlining the proposed studies and relevant coordination issues was distributed to the Cultural Resources Work Group and is appended to this summary as Attachment 4.

#### *List of Studies*

Steve Heipel reviewed the four studies proposed by the consultants and DWR staff. The studies cover the four elements identified in the Issue Sheets: resource inventory, evaluation, management, and interpretation. Steve added that these are the essential components of a Cultural Resources Management Plan.

Bruce Steidl asked how these draft studies accommodate previous unfinished reports discussed by the Cultural Resources Work Group. He was concerned that field studies would begin without a full understanding of the existing reports. Adrian Praetzellis responded that the research design includes an assessment of unfinished reports on existing collections. Steve Heipel added that the studies would identify the elements of the reports that may be useful to this process, including information in unfinished reports.

One participant suggested that the investigations should include spiritual as well as scientific information. She said an artifact can be analyzed and dated using science but you cannot capture the spiritual uniqueness of it or understand the connections from the Tribal perspective. Steve responded that the MOU could help with this concern by identifying a long-term plan that considers everyone's needs and perspectives.

Bruce Steidl asked about the status of artifacts removed at the time Oroville Dam was built. Dale Hoffman-Floerke responded that DWR and the Tribes have had discussions with other State agencies regarding the artifacts and their return to the Tribes. Dale stressed that while repatriation is not a relicensing issue, DWR understands the significance of the issue and has facilitated the discussions. Art Angle agreed that DWR had been helpful in this process. He added that the Tribes need to have the appropriate resources (including an internment site) to receive the artifacts.

#### *Coordination Issues Relative to Other Work Groups*

The Facilitator described the need to carefully coordinate study plan development with the other Work Groups. She noted the importance of one Work Group not pursue studies and plans that are incompatible with or duplicative of another Work Group's efforts. She explained how other Work Groups have established Task Forces to evaluate Issue Sheets and Information Needs to identify the studies that fall in their area of expertise versus those that should be pursued by other Work Groups. Once studies that require coordination are identified, each DWR Resource Area Manager (RAM) has the responsibility to make sure that information is exchanged between the Work Groups. For example, information gathered in CUL.S.1 – Cultural Resource Inventory, will be critical to consider by the Recreation and Socioeconomics Work Group when they begin to identify potential new recreation sites.

The Cultural Resources Work Group reviewed and approved the list of draft studies and coordination issues as described in the handout.

#### **Introduction to Study Plan Development**

With the information developed by DWR and the consultants, the Facilitator asked the Cultural Resources Work Group participants how they wanted to proceed with formal study plan development. She explained that other Work Groups have created task forces to develop draft study plans for full Work Group review. She added that a study plan template has been developed and is being followed by the study plan task forces for other Work Groups to make sure that the separate Work Group study plans are consistent and defensible. The template was distributed to the Work Group and is appended to this summary as Attachment 5.

Participants agreed that the template was useful and requested that DWR staff and the consultants develop draft study plans before engaging a Task Force or the Cultural Resources Work Group. Several participants stressed the need for the consultants and staff to work closely with tribal leaders and other knowledgeable community leaders during this study plan development.

DWR staff and the consultants agreed to develop at least one draft study plan for Cultural Resources Work Group review at their next meeting. Time allowing, the consultants will prepare additional information for the other three study plans. The draft study plan will be distributed to the Cultural Resources Work Group for review prior to the October Work Group meeting.

#### **Other Issues**

Leslie Steidl of DPR provided the following comments/clarifications:

- Corrected Issue Sheets are posted on the relicensing web site.

- Consultation under Section 106 mandates the federal agency to do consultation however in this case FERC, as the federal agency has delegated consultation responsibility to DWR.
- As the lake water level continues to drop, more sites are being exposed so the Fluctuation Zone study needs to be expedited if we are to take advantage of the unusually low water levels.
- Leslie is preparing a flyer for fifth graders as part of a DPR education program for school-age children. Please provide comments to Leslie on the distributed draft.
- DPR is looking for site stewards. If interested, please contact Eric Ritter for training information.

### **Agenda Items for Next Meeting**

The Cultural Resources Work Group agreed that the following items should be on the October 23, 2001 meeting agenda:

- SHPO presentation
- Discussion on Section 106 process
- Update on Fluctuation Zone studies
- MOU Committee update
- Study plan development update

### **Next Meeting**

One participant pointed out that the early start for the Cultural Resources Work Group meetings makes it difficult to arrive on time. She asked if the meeting time could be moved to either 5:30 or 6:00 p.m. The Cultural Resources Work Group agreed to start the next meeting at 5:30 p.m.

One participant asked if a sound system could be provided for the next meeting. Dale responded that she would look into it.

The Cultural Resources Work Group agreed to meet:

Date: Tuesday, October 23, 2001  
 Time: 5:30 to 9:30 p.m.  
 Location: To be announced.

The Cultural Resource Work Group meeting adjourned at 9 p.m.

### **Agreements Made**

1. The Cultural Resources Work Group accepted the draft studies and coordination issues and agreed to move them ahead for study plan development.
2. The Cultural Resources Work Group agreed to task DWR staff and the consulting team with developing draft study plans for review at the next Cultural Resources Work Group meeting.

### **Action Items**

The following list of action items identified by the Cultural Resources Work Group includes a description of the action, the participant responsible for the action, and due date.

**Action Item #C28:** Develop draft Memorandum of Understanding between DWR, DPR and the Tribes explaining Tribal involvement.  
**Responsible:** DWR Staff/Tribal Representatives

**Due Date:** October 23, 2001

**Action Item #C29:** Distribute draft Study Plan to the Cultural Resources Work Group prior to their next meeting.

**Responsible:** DWR staff/Consulting team

**Due Date:** October 16, 2001